

Arkansas-Best Freight System, Inc. and Richard Griggs. Case 14-CA-14213

July 30, 1981

DECISION AND ORDER

On March 16, 1981, Administrative Law Judge Marvin Roth issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief.

The Board has considered the record and the attached Decision in light of the exceptions and brief and has decided to affirm the rulings,¹ findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order, as modified herein.²

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, as modified below, and hereby orders that the Respondent, Arkansas-Best Freight System, Inc., Cape Girardeau, Missouri, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, as modified herein:

1. Substitute the following for paragraph 1(b):

"(b) Maintaining or enforcing any rule which discriminatorily prohibits its employees from posting union campaign literature on employee bulletin boards."

2. Substitute the following for paragraph 1(c):

"(c) Maintaining or enforcing any rule or policy which prohibits its employees from posting union campaign literature on employee bulletin boards or distributing union campaign literature in nonwork-

ing areas on nonworking time, or from soliciting votes on nonworking time."

3. Substitute the following for paragraphs 2(a) and (b):

"(a) Withdraw and rescind its policy statement of September 17, 1980, posted at its Cape Girardeau, Missouri, facility regarding the distribution and posting of campaign literature and solicitation of votes in union elections.

"(b) Post at its Cape Girardeau, Missouri, terminal copies of the attached notice marked 'Appendix.'⁵ Copies of said notice, on forms provided by the Regional Director for Region 14, after being duly signed by Respondent's authorized representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material."

4. Substitute the attached notice for that of the Administrative Law Judge.

APPENDIX

**NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

WE WILL NOT prohibit our employees from posting union campaign literature on the employee bulletin board at our Cape Girardeau, Missouri, terminal.

WE WILL NOT maintain or enforce any rule which discriminatorily prohibits our employees from posting union campaign literature on the employee bulletin board at our Cape Girardeau, Missouri, terminal.

WE WILL NOT maintain or enforce any rule or policy which prohibits our employees from posting or distributing union campaign literature in nonworking areas on nonworking time, or from soliciting votes on nonworking time at our Cape Girardeau, Missouri, terminal.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of their right to engage in union

¹ We find no merit in Respondent's contention that the General Counsel's motion at the hearing to amend the complaint should not have been granted. There is no indication that any of the parties were caused any hardship by the amendment. Respondent's reliance on *Mike Yurosek & Son*, 229 NLRB 152 (1977), is misplaced. In that case the motion to amend was not raised until all testimony had been taken. In the present case, the motion to amend was made early enough in the hearing to obviate any possible problem of "surprise." See *South Shore Hospital*, 229 NLRB 363 (1977).

² We have modified the Order to conform with the Administrative Law Judge's finding that Respondent violated Sec. 8(a)(1) by maintaining and enforcing a rule which prohibits employees from posting union campaign literature on the employee bulletin board. We also modify the Administrative Law Judge's recommended remedy. Although we agree that Respondent should be ordered to rescind its policy statement of September 17, we shall limit such rescission, and the concurrent posting of the appropriate notice, solely to the facility involved in the present proceeding, located at Cape Girardeau, Missouri. We limit the posting of the notice to the one facility since the record is devoid of any evidence indicating that Respondent's policy statement of September 17 was posted or implemented at any of its other facilities. Such an absence distinguishes the present situation from others where respondents were found to have engaged in violations of the Act, similar in nature, on a companywide basis. See *Delchamps, Inc.*, 234 NLRB 262 (1978), and *Florida Steel Corporation*, 233 NLRB 491 (1977).

or concerted activities, or to refrain therefrom at our Cape Girardeau, Missouri, terminal.

WE WILL withdraw and rescind our policy statement of September 17, 1980, regarding the distribution and posting of campaign literature and solicitation of votes in union elections at our Cape Girardeau, Missouri, terminal.

ARKANSAS-BEST FREIGHT SYSTEM,
INC.

DECISION

STATEMENT OF THE CASE

MARVIN ROTH, Administrative Law Judge: The complaint in this case against Arkansas-Best Freight System, Inc.¹ (herein called Respondent or the Company), was heard by me in St. Louis, Missouri, on October 27, 1980.² The charge was filed on September 8 by Richard Griggs, an individual. The complaint, which issued on October 3 and was amended at the hearing, alleges that Respondent violated Section 8(a)(1) of the National Labor Relations Act, as amended. The gravamen of the complaint, as amended, is that since on or about September 3, the Company has maintained and enforced a discriminatory rule prohibiting union campaign literature on its employee bulletin board, and, since September 17, has maintained and enforced an overly broad no-solicitation/no-distribution rule. The Company's answer denies the commission of the alleged unfair labor practices. All parties were afforded full opportunity to participate, to present relevant evidence, to argue orally, and to file briefs. The General Counsel and the Company each filed a brief.

Upon the entire record in this case, from my observation of the demeanor of the witnesses, and having considered the briefs and arguments of the parties, I make the following:

FINDINGS OF FACT

I. THE BUSINESS OF RESPONDENT

The Company, an Arkansas corporation, is engaged throughout the United States as a motor freight common carrier in the interstate transportation of freight, general commodities, and related products. The Company maintains a branch terminal at Cape Girardeau, Missouri. In the operation of its business, the Company annually derives gross revenues in excess of \$50,000 for the transportation freight and commodities from Arkansas directly to points outside of Arkansas, and annually performs services valued in excess of \$50,000 in States other than Arkansas. I find, as the Company admits, that it is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

Teamsters Local Union No. 574, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Ware-

housemen and Helpers of America (herein called the Union), is a labor organization within the meaning of Section 2(5) of the Act. The Union is the collective-bargaining representative of the Company's employees at the Cape Girardeau facility.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. The Facts

The Company and the Union are signatories to the National Master Freight Agreement, covering, *inter alia*, the employees at Cape Girardeau, which contains the following provision (art. 19, sec. 2):

The Employer agrees to provide suitable space for the Union bulletin board in each garage, terminal or place of work. Postings by the Union on such boards are to be confined to official business of the Union.

The Company's Cape Girardeau terminal is located within a fenced enclosure. There is an employee parking lot located on company property adjacent to but outside the fenced area. The "drivers' room" is located within the terminal building, and there is a washroom adjacent to the drivers' room. The drivers' room measures about 12 by 20 feet, and contains two tables and a coin changer, but no vending machines or other facilities for meals or coffeebreaks. The Company's over-the-road drivers, who are based at Cape Girardeau, normally use this room for their paperwork, e.g., preparing logs or such paperwork as is necessary for their trips. On the average, the road drivers use the drivers' room from three to six times per week, and spend about 30 minutes in the room on each occasion. There is also a "city room" where the city drivers receive their assignments. Additionally, there is a lounge for "foreign" drivers, i.e., road drivers based at other terminals, which includes facilities for meals. However, the road drivers based at Cape Girardeau normally take their breaks on the road or at other terminals, and seldom have occasion to use the lounge. Until mid-May, the drivers' room contained three bulletin boards, two of which were used by the Company for company business. One of these was locked and under glass, and the other was open. A third bulletin board was reserved for the Union, pursuant to the above-quoted provision of the National Master Freight Agreement. Only the Union's steward and business agent had access to this board, which was locked and glass enclosed. Until mid-May, employees who for whatever reason wished to post notices of their own, e.g., for sale of personal property or invitations to social events, simply taped or otherwise attached their notices to the walls of the drivers' room.

The Union elects its officers every 3 years. The most recent election, prior to the events which gave rise to their case, was in 1977. The evidence fails to indicate that in the 1977 election, or in any previous election, the employees or union officials used the walls of the drivers' room for campaign literature as such, although at least in 1977, campaign literature was placed on the tables in the drivers' room. Indeed the last seriously contested election was apparently in 1968, when the Compa-

¹ The Company's name is hereby amended to reflect its correct name.

² All dates herein refer to 1980, unless otherwise indicated.

ny's Cape Girardeau facility consisted of a house trailer. However, following the 1977 election, Union Steward John Reece, who was also elected as a union vice president or trustee, posted a notice on the wall, thanking the members for voting for him. Uncontroverted testimony by unit road drivers Richard Griggs (the Charging Party herein) and David Prater further indicate that employees, including Griggs, used the walls of the drivers' room for the purpose of posting open letters or other notices of a controversial nature involving intraunion matters. In 1977, Griggs posted an announcement of a rally on behalf of PROD, a Teamster dissident movement. Employees posted notices of subsequent PROD meetings. Griggs also posted his open letters to the members. One of these called upon the Union to commence negotiations for time off for "extra board"; i.e., oncall drivers and another, in 1978, announced Griggs' resignation from and expressed dissatisfaction with PROD. Similar employee-posted notices dealt with other controversial matters, including an investigation of the Central States' Pension Fund, which covered the unit employees. It is uncontroverted that, prior to May 1980, these notices remained on the walls until removed by the posting employee, and that prior to May 1980, the Company did not remove any such notice.

Union nominations were scheduled for November 2, and election of officers was scheduled for the second Sunday in December. However, some prospective candidates, including Griggs, sought to begin their campaigning long before those dates. Unlike prior campaigns, when the candidates ran separately, the prospective 1980 candidates were in the process of forming slates. About May 1, David Prater posted a notice on the drivers' room wall requesting contributions for his prospective slate. Company Driver-Supervisor David Ledure, who had assumed that position upon his transfer from the Company's Indianapolis terminal in April, removed the notice. When Prater complained to Ledure, the supervisor explained that he removed the notice because company policy prohibited politicking for union office on company premises. Prater disagreed that this was company policy, and referred to the prior use of the walls. Prater also called Ledure's attention to a posted notice by the Union's business agent, concerning deregulation of the trucking industry. Ledure conceded that this notice was political, but argued that the notice reflected a common policy by the Company and the Union. Shortly thereafter, the Company, by Ledure, removed all notices from the drivers' room walls, and placed them (but not including any campaign literature) on a newly installed employee bulletin board. This was an open cork board, and was relatively small, measuring only about 3 by 5 feet, and less than half the size of the union bulletin board. At the present hearing, the Company stipulated that the bulletin board was "designated for and used by employees for posting of notices regarding sales of personal property and other items." There is no indication that prior approval was required for an employee to post such notices. Supervisor Ledure testified that he considered the drivers' room to be unsightly because of the notices on the walls. However, no evidence was presented which would indicate that the removal of notices from the

walls was necessary to maintain production, discipline, health, or safety. As indicated, the Company took no action until after the dispute over Prater's notice.

On September 3, Richard Griggs, on behalf of the prospective slate of candidates headed by himself and David Prater, posted a notice on the employee bulletin board captioned "TEAM 80 DEDICATED TO BETTER REPRESENTATION" followed by a list of the prospective candidates, further identified as "Candidates For Office In Teamsters Local 574 Election December 1980." There followed a handwritten invitation to "all Teamsters and Spouses" to attend a "free fish fry" on September 6. Steward Reece called the notice to the attention of Supervisor Ledure, who removed the notice, tore it in half, and reposted the bottom portion of the notice, beginning with "Candidates For Office" and including the invitation to the fish fry. After speaking to Ledure, who reiterated company policy, Griggs removed the truncated notice, which he regarded as inadequate. That week, Prater distributed literature for the "Team 80" slate in the employee parking lot, without interruption. However, the evidence fails to indicate that any supervisor was present or that the Company knew of the distribution.

On September 17, the Company, by the vice president for industrial relations, Poe Rogers, issued to all its facilities the following statement of policy:

TO ALL BRANCH MANAGERS 9-17-80

MANY LOCAL UNIONS ARE HOLDING ELECTIONS FOR OFFICERS THIS YEAR AND CAMPAIGNS IN MANY AREAS ARE IN FULL SWING.

THIS IS A REMINDER OF ABS'S LONG STANDING POLICY OF NEUTRALITY IN UNION POLITICS AND UNION ELECTIONS.

IN KEEPING WITH THIS POLICY THE DISTRIBUTION/POSTING OF CAMPAIGN LITERATURE ON COMPANY PREMISES OR EQUIPMENT IS PROHIBITED.

BULLETIN BOARDS, DRIVERS ROOMS AND OTHER APPROPRIATE AREAS SHOULD BE INSPECTED DAILY AND ANY SUCH MATERIAL OBSERVED SHOULD BE IMMEDIATELY REMOVED.

CANDIDATES FOR OFFICE MAY NOT SOLICIT VOTES ON COMPANY PREMISES IN PERSON OR THROUGH ANOTHER PERSON.

YOU AND ALL OTHER MANAGEMENTS/-SUPERVISORY/SALLES PERSONNEL MUST AVOID ANY EXPRESSION OF PARTIALITY TOWARD ANY CANDIDATE OR SLATE OF CANDIDATES INCLUDING OUR OWN EMPLOYEES WHO MAY BE RUNNING FOR OFFICE.

YOU MAY NOT PROHIBIT EMPLOYEES FROM WEARING CAMPAIGN BUTTONS OR ITEMS OF PERSONAL CLOTHING WITH CAMPAIGN SLOGANS OR NAMES.

IF YOU DESIRE, YOU MAY POST THIS NOTICE, OR ONE SIMILARLY WORDED OVER YOUR OWN SIGNATURE,

ON THE BULLETIN BOARD IF CAMPAIGNS ARE BEING CONDUCTED IN YOUR AREA.

The Company posted a copy of this statement in the drivers' room at Cape Girardeau. Interestingly, the notice was not posted on any bulletin board. Rather, the notice was posted on a glass portion of the wall. Rogers testified, in sum, that the notice reflected a longstanding company policy, which was effective throughout its entire system. However, prior to May 1980, the employees at Cape Girardeau were not informed of the foregoing or any similar policy and, as indicated, the Company did not prevent the posting or distribution of controversial material in the drivers' room. Indeed, Steward Reece testified that he did not learn of the Company's policy until September 1980. Supervisor Ledure testified that, pursuant to the company policy, he would prohibit any distribution of campaign literature within the fenced premises of the terminal (i.e., excluding the parking area), but would not prohibit verbal campaigning unless it interfered with employee work. In fact, apart from the written language of the stated policy, the evidence indicates that the Company has applied the policy in this manner at Cape Girardeau. Rogers and Ledure testified that the rationale for the Company's policy was its wish (as indicated in the written statement) to remain neutral with respect to union politics and elections. In October, Griggs placed a stack of campaign literature on one of the tables in the drivers' room, i.e., for self-distribution by the employees. Ledure, invoking company policy, removed the literature. David Prater testified that in October he saw Union President Gilbert Davis distributing literature to drivers just inside the terminal fence. However, the evidence fails to indicate the nature of the literature. Moreover, the prospective incumbent candidates did not engage in any active campaigning (at least none involving the distribution of literature) prior to this hearing. Steward Reece testified, and also informed Ledure and Griggs, that after the official nomination of candidates on November 2, the Union would post a list of the candidates, including slates, on the union bulletin board.

B. Analysis and Concluding Findings

In *Container Corporation of America*, 244 NLRB 318, fn. 2 (1979), the Board held as follows:

It is well established that there is no statutory right of employees or a union to use an employer's bulletin board. However, it is also well established that when an employer permits, by formal rule or otherwise, employees and a union to post personal and official union notices on its bulletin boards, the employees' and union's right to use the bulletin board receives the protection of the Act to the extent that the employer may not remove notices, or discriminate against an employee who posts notices, which meet the employer's rule or standard but which the employer finds distasteful. See *Group One Broadcasting Co., West*, 222 NLRB 993 (1976); *Nugent Service, Inc.*, 207 NLRB 158 (1973); *Tempco Mfg. Co., Inc.*, 177 NLRB 336 (1969); *Challenge Cook Brothers of Ohio, Inc.*, 153 NLRB 92 (1965).

See also *Challenge Cook Brothers of Ohio, Inc.*, 153 NLRB 92, 99 (1965), *enfd.* as modified in other respects 374 F.2d 147, 153 (6th Cir. 1967), cited by the Board in *Container Corporation*. The rationale of *Container Corporation* is applicable to the facts of this case. The employee bulletin board which was installed by the Company in May 1980 was a modified continuance of the Company's policy of permitting the employees to post personal notices or other written material on the walls of the drivers' room. The right of employees to engage in a partisan union election campaign is a right which is protected by Sections 7 and 8(a)(1) of the Act. Having permitted its employees to use first the walls and later the employee bulletin board in the drivers' room to post personal written material, the Company cannot lawfully exempt from such permission activity which falls within the ambit of Section 7 simply because, as here, the Company finds such activity "distasteful." *Container Corporation, supra*. Such a restriction is discriminatory and violative of Section 8(a)(1) of the Act.

The Company's reliance on *Nugent Service, Inc.*, 207 NLRB 158 (1978) (also cited in *Container Corporation*), is misplaced. In *Nugent*, the employer discharged an employee who, in disregard of the employer's instruction, posted a notice on plant bulletin boards on behalf of one of two employee factions which were competing for union office. The plant contained two bulletin boards, one of which was used by the Company and the other which was established and used by the collective-bargaining representative, pursuant to their contract. However, in practice, employees were permitted to post personal notices on the boards. Initially, the employer did not object when one rival group posted its campaign literature on the boards. However, the employer put a stop to the practice when the two rival groups nearly came to blows over the dissident group's use of the boards. The Administrative Law Judge held that the employer properly prohibited the campaign literature and, consequently, did not violate the Act by discharging the employee for insubordination. The Board affirmed his Decision. The facts in *Nugent* differ from those in the present case in two significant respects. First, in *Nugent*, the boards were established principally as a means of communication by the employer and the union respectively, although employee use of the boards was tolerated. Therefore, as found by the Administrative Law Judge, "their use for partisan union purposes serves to entangle the Employer in a dispute which should be none of his concern." However, in the present case the Company provided a bulletin board for the exclusive use of the employees. More fundamentally, the issue in *Nugent*, as defined by the Administrative Law Judge, was "the extent to which the Company could restrict use of the bulletin boards during a campaign for the election of union officers, after a confrontation between adherents of the two opposing factions." (Emphasis supplied.) In essence, the Administrative Law Judge applied the well-established rules that a restriction on employee union solicitation during nonworking time "must be presumed to be an unreasonable impediment to self-organization and therefore discriminatory in the absence of evidence that special circum-

stances make the rule necessary in order to maintain production or discipline." *Republic Aviation Corporation v. N.L.R.B.*, 324 U.S. 793, fn. 10 (1945), citing *Peyton Packing Company, Inc.*, 49 NLRB 828, 843-844 (1943). (Emphasis supplied.) No such special circumstances exist in the present case. Supervisor Ledure admitted in his testimony that there was adequate space on the employee bulletin board for the Team 80 notice. There is no evidence that the use of the walls or bulletin board for controversial material has ever generated violence, or the threat of violence. If a shortage of space should develop on the employee board, then the Company has only itself to blame. The Company had, without any difficulty, permitted its employees to use the walls of the drivers' room for their personal notices, including controversial matters. Nevertheless, the Company chose to substitute for this purpose a relatively small bulletin board. Moreover, the Company took this action only after David Prater sought to post a notice which related to his campaign. Therefore, the Company is in no position to complain that it might be forced "to intervene in allocating the amount of space available and the length of time each side could have for posting its literature" (*Nugent Service, supra*, 207 NLRB at 161). I have no reason to question the Company's assertion that it wishes to maintain a position of neutrality with respect to intraunion politics and elections. However, an employer, no matter how well meaning its motivation, cannot carve out from employee use of a bulletin board for various forms of solicitation, e.g., sales of personal property or invitations to social events, all or a portion of solicitation which constitutes the kind of activity which is protected by Section 7 of the Act. Such a prohibition is discriminatory and unlawful. Therefore, the Company is violating Section 8(a)(1) of the Act by maintaining and enforcing a rule which prohibits employees from posting union campaign literature on the employee bulletin board.³

I further find that the Company violated Section 8(a)(1) by promulgating, maintaining, and enforcing a no-solicitation/no-distribution rule or policy, which was unlawfully broad both on its face and its application. On its face, the policy statement of September 17 and specifically the third, fourth, and fifth sentences prohibit any distribution of campaign literature or electioneering whatsoever on company premises. This would encompass verbal solicitation on nonworking time, as well as distribution, posting, and solicitation in nonwork areas, such as the employee parking lot, washroom, and drivers' lounge. It is settled law that an employer may not, absent the special circumstances noted by the Supreme

Court in *Republic Aviation, supra*, maintain or enforce a rule which prohibits its employees from engaging in union solicitation (including campaign activity) on nonworking time or union distribution on nonworking time or in nonworking areas. *Stoddard-Quirk Manufacturing Co.*, 138 NLRB 615, 619-621 (1962). Therefore, even apart from the manner of its enforcement, the Company unlawfully promulgated and maintained its policy statement of September 17. *Yellow Cab, Inc.*, 210 NLRB 568, 569 (1974). Employees are not required to speculate, at the risk of possible disciplinary action, whether an employer will enforce an unlawful no-solicitation/no-distribution rule in a lawful manner. Such a rule has a chilling effect on the exercise of Section 7 rights, without regard to the manner of its enforcement. Moreover, the Company's enforcement of the policy was also unlawfully broad. As indicated, Supervisor Ledure testified that he interpreted the Company's policy as prohibiting the distribution posting of literature in nonworking areas of the terminal, such as the drivers' lounge and washroom. For the reasons previously discussed, the policy also unlawfully extended to the employee bulletin board in the drivers' room. I further find that the Company violated Section 8(a)(1) by removing campaign literature from the table in the drivers' room. First, the Company did so pursuant to an invalid policy. Second, the action was discriminatory because the Company had previously permitted the distribution of campaign literature in this manner. Third, the drivers' room was not a strictly work area, but was "a mixed use area, where drivers may either work or relax," and "the only area where drivers can regularly communicate with one another on subjects of mutual concern." Indeed, the Company recognized these factors by permitting its drivers to use the drivers' room for the posting and distribution of personal notices. See *Transcon Lines*, 235 NLRB 1163, 1165 (1978), *enfd.* as modified in other respects 599 F.2d 719, 721-722 (5th Cir. 1979).

CONCLUSIONS OF LAW

1. The Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. By promulgating, maintaining, and enforcing a rule which discriminatorily prohibits its employees from posting union campaign literature on the employee bulletin board at its Cape Girardeau terminal, and by promulgating, maintaining, and enforcing a rule or policy which prohibits its employees from posting or distributing union campaign literature in nonworking areas and from campaigning on nonworking time, and thereby interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the Company has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act.
4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

³ I find without significance an administrative refusal by the Regional Director for Region 25 to issue an unfair labor practice complaint based on a charge against the Company which was similar to that in the present case (Case 25-CA-12038). It is settled law that such administrative dispositions do not constitute authoritative Board precedent. Moreover, the Regional Director's summary report, which refers to a "Company-union bulletin board at the Company's Indianapolis terminal," fails to indicate that employees were permitted to use the board for personal notices. Both the summary report and the charge tend to indicate that the board was used exclusively for company or union business. Therefore, it appears that the Region 25 case arose in a different factual context from that of the present case. The Region 25 case arose prior to the events of the present case, including the Company's policy statement of September 17.

THE REMEDY

Having found that the Company has committed violations of Section 8(a)(1) of the Act, I shall recommend that it be required to cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. I shall specifically recommend that the Company be ordered to rescind its policy statement of September 17. As the statement reflects a companywide policy and the Company distributed the statement throughout its entire system, I shall recommend that the Company be directed to post an appropriate notice at each of its facilities.

Upon the foregoing findings of fact and conclusions of law, and upon the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER⁴

The Respondent, Arkansas-Best Freight System, Inc., Cape Girardeau, Missouri, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Prohibiting its employees from posting union campaign literature on the employee bulletin board at its Cape Girardeau, Missouri, terminal.

(b) Maintaining or enforcing any rule which discriminatorily prohibits its employees from posting union campaign literature on its bulletin boards.

(c) Maintaining or enforcing any rule or policy which prohibits its employees from posting or distributing union campaign literature in nonworking areas on nonworking time, or from soliciting votes on nonworking time.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed Section 7 of the Act.

2. Take the following affirmative action which is found necessary to effectuate the policies of the Act:

(a) Withdraw and rescind its policy statement of September 17, 1980, regarding the distribution and posting of campaign literature and solicitation of votes in union elections.

(b) Post at its principal office and place of business, at its Cape Girardeau, Missouri, terminal and at each of its facilities throughout the United States copies of the attached notice marked "Appendix."⁵ Copies of said notice, on forms provided by the Regional Director for Region 14, after being duly signed by Respondent's authorized representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 14, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

⁴ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

⁵ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."